

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON, et al.,

Defendants.

CASE NO. CV 9213

Subproceeding No. 01-02

ORDER

This matter is before the Court for consideration of cross-motions by the Samish Tribe and the eight Treaty Tribes to re-establish a briefing schedule in this matter. Dkt. ## 144, 147. Having considered the motions and responsive memoranda, the Court now finds and ORDERS:

(1) The motion by the Samish Tribe to withdraw their opening brief, filed August 12, 2005 (Dkt. # 144) is DENIED. The current matter was initiated by that motion to reopen, and the motion shall remain on the record. The Samish Tribe may, however, file a supplemental brief as set forth in the following briefing schedule.

(2) The Court notes that issues of timeliness and equitable considerations raised previously by the Treaty Tribes have not yet been addressed. The Court declines to find, as the Samish Tribe urges, that the Ninth Circuit Court of Appeals' denial of rehearing *en banc* constituted a ruling on the merits of these issues. They therefore remain at issue, such that a period of discovery is necessary. The motion of the Treaty Tribes for a scheduling order incorporating a period of discovery is accordingly GRANTED. Dkt. # 147.

1 (3) The parties shall observe the following briefing schedule:

2 June 30, 2006	Completion of Discovery
3 August 1, 2006	The Samish Tribes' Supplemental Brief due
4 September 1, 2006	The Treaty Tribes' Response due
5 September 29, 2006	The Samish Tribes' Reply due

6  
7 (4) The Samish Tribe's Rule 60(b) Motion to Re-Open shall be noted on the Court's calendar for  
8 October 6, 2006. Oral argument shall be scheduled on a date thereafter as shall be agreed among the  
9 parties. Pages limits shall remain as set previously. The supplemental brief of the Samish Tribe shall not  
10 exceed twenty pages.  
11

12 DATED this 28 day of February 2006.  
13

14 

15 RICARDO S. MARTINEZ  
16 UNITED STATES DISTRICT JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28